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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Mireille MAUBRU et al.) Group Art Unit: 1619
)
Application No.: 09/759,530) Examiner: M. Willis
)
Filed: January 16, 2001)
)
For: DETERGENT COSMETIC)
COMPOSITIONS COMPRISING A)
SPECIFIC AMPHOTERIC)
STARCH, AND USES THEREOF)

Commissioner for Patents and Trademarks
Washington, DC 20231

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In an Office Action dated November 1, 2001, the Examiner required restriction under 35 U.S.C. § 121 between the following Groups:

- I. Claims 1-36, drawn to compositions comprising an amphoteric starch, classified in class 424, subclass 401;
- II. Claims 37-38, drawn to a process for removing make-up, classified in class 424, subclass 401; and
- III. Claims 39-44, drawn to a process for conditioning and washing-and-conditioning keratin material, classified in class 424, subclass 70.1.

Applicants elect, with traverse, to prosecute Group I, claims 1-36, drawn to cosmetic compositions comprising an amphoteric starch. Applicants traverse on the ground that it would not be unduly burdensome to search and examine the subject

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matter of all the claims as written. See MPEP § 803. Applicants submit that a search and examination of the subject matter of Groups II and III would appear to encompass the search and examination of the subject matter of Group I because all the claims recite a composition comprising a washing base and at least one amphoteric starch chosen from the compounds of formulae (I) to (IV), wherein said composition is free of fatty acid soaps. Moreover, at least Groups I and II share the same classification, as set forth in the Office Action dated November 1, 2001. Accordingly, Applicants submit that no serious burden should result from examining the subject matter of all three groups in the same application, and therefore request that the restriction requirement be withdrawn.

In the event that the restriction requirement is maintained by the Examiner, and the elected claims drawn to a cosmetic composition are found allowable, non-elected process claims which include all limitations of the composition claims must be rejoined. See MPEP § 821.04.

The Examiner has also required an election of species for the compounds of formulae (I) through (IV). Official Action at page 3. In addition, the Examiner has indicated that "[i]f Invention I is elected, applicant is additionally required to elect one of anionic, amphoteric, or nonionic surfactants. Further election of a specific cationic polymer, a specific silicone, and a specific additive and the claims readable thereon is also required." *Id.* at pages 3-4.

Applicants traverse this requirement, but to be fully responsive to the requirement, elect:

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- (1) the species of amphoteric starch of formula (I) wherein R, R', and R" are hydrogen and n is equal to 2 (see claim 3), as encompassed by claims 1-44;
- (2) the species of anionic surfactants chosen from alkyl ether sulfate salts as disclosed on page 5, lines 20-21 (see also claim 5), as encompassed by claims 1-44;
- (3) the species of cationic polymers recited in Examples 1-3 chosen from hydroxyethylcellulose crosslinked with epichlorohydrin, quaternized with trimethylamine, which is a cellulose ether derivative comprising quaternary ammonium groups that are quaternary ammoniums of hydroxyethylcellulose which has reacted with an epoxide substituted with a trimethylammonium group as disclosed on page 16, lines 12-18 (see also claim 14), as encompassed by claims 1-44;
- (4) the species of silicones chosen from polydimethylsiloxanes as disclosed on page 28, lines 14-18 (see also claim 22), as encompassed by claims 1-44; and
- (5) the species of additives recited in Examples 2-4 chosen from coconut monoisopropanolamide (see also claim 33), as encompassed by claims 1-44.

Applicants respectfully traverse on the ground that the species disclosed do not represent an unreasonable number of species. Accordingly, Applicants respectfully request that all the claimed species continue to be examined in this application.

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If the Examiner chooses to maintain the election of species requirement, Applicants expect the Examiner, if the elected species is found allowable, to continue to examine the full scope of the elected subject matter to the extent necessary to determine the patentability thereof, *i.e.*, extending the search to a reasonable number of the non-elected species, as is the duty according to M.P.E.P. § 803.02 and 35 U.S.C. § 121.

In view of the foregoing remarks, Applicants respectfully submit that the restriction/election of species requirement is in error and request that the requirement be withdrawn. Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 30, 2001

By: 
Matthew J. Mason
Reg. No. 44,904

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